7102-AA

Recordation No. _____ Filed

DEC 13 1973 -11 15 AM

INTERSTATE COMMERCE COMMISSION

AMENDMENT AGREEMENT dated as of December 1, 1973, between FIRST SECURITY BANK OF UTAH NATIONAL ASSOCIATION (hereinafter called the Lessor), as Trustee for Trusco Leasing Inc., and TRAILER TRAIN COMPANY (hereinafter called the Lessee).

WHEREAS the Lessor and the Lessee have entered into a Lease of Equipment dated as of July 1, 1973, and an Amendment Agreement dated as of July 15, 1973 (such Lease of Equipment, as amended by such Amendment Agreement, being hereinafter called the Lease), filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act on July 12, 1973 (recordation number 7102-C) and on October 3, 1973 (recordation number 7102-M), respectively; and

WHEREAS the parties hereto desire to amend the Lease.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

1. The Lease is hereby amended to read in its entirety as set forth in Exhibit A hereto.

2. The Lessee will promptly cause this Amendment Agreement to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate

Commerce Act.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed hereto by their respective officers thereunto duly authorized and their respective corporate seals, duly attested, to be hereunto affixed as of the day and year first above written.

FIRST SECURITY BANK OF UTAH
NATIONAL ASSOCIATION, as
Trustee,

by _____
Authorized Officer

[Corporate Seal]

Attest:
_____
Authorized Officer

TRAILER TRAIN COMPANY,

by _____
Vice President-Finance
and Treasurer

[Corporate Seal]

Attest:
_____
Assistant Secretary

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this 6th day of December 1973, before me personally appeared Calvin E. Anderson to me personally known, who, being by me duly sworn, says that he is an authorized officer of FIRST SECURITY BANK OF UTAH NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said association, that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

Peggy Ann Kirkseid
Notary Public

[NOTARIAL SEAL]

My Commission expires:

My Commission Expires Nov. 10, 1976

STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK,)

On this 11th day of Dec. 1973, before me personally appeared N. V. Reichert, to me personally known, who, being by me duly sworn, says that he is the Vice President-Finance and Treasurer of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Wendy L. Janicek
Notary Public

[NOTARIAL SEAL]

My Commission expires: 2-17-75

LEASE OF EQUIPMENT

BETWEEN

**FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION,
as Trustee for**

TRUSCO LEASING INC.

AND

TRAILER TRAIN COMPANY

Dated as of July 1, 1973

LEASE OF EQUIPMENT dated as of July 1, 1973, between FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, a national banking association (hereinafter called the Lessor), as trustee under a Trust Agreement dated as of the date hereof with the party named in Item 1 of Schedule A hereto (hereinafter called the Beneficiary), and TRAILER TRAIN COMPANY, a Delaware corporation (hereinafter called the Lessee).

WHEREAS the Lessee has entered or will enter into manufacturing agreements (hereinafter called the Manufacturing Agreements), with Pullman Incorporated (Pullman-Standard division), Bethlehem Steel Corporation and ACF Industries, Incorporated (hereinafter all called the Manufacturers), pursuant to which the Lessee has agreed to purchase and take delivery of certain railroad equipment; and

WHEREAS the Lessee is assigning its rights under the Manufacturing Agreements to purchase and take delivery of those units of the railroad equipment described in Item 2 of Schedule A hereto (such railroad equipment being hereinafter sometimes called the Equipment); and

WHEREAS the Lessee agrees to lease from the Lessor all the units of the Equipment, or such lesser number of units as are delivered and accepted under the Manufacturing Agreements on or prior to December 31, 1973, at the rentals and for the term and upon the conditions hereinafter provided (each such unit being hereinafter called a Unit); and

WHEREAS the Lessor and the Lessee will enter into an equipment trust agreement (hereinafter called the Equipment Trust Agreement), with a corporate trustee (hereinafter called the Trustee), pursuant to which equipment trust certificates (hereinafter called the Trust Certificates) will be sold to finance a portion of the purchase price of the Equipment, the Lessor will be obligated to make payments of principal and interest thereon out of the rentals received hereunder, security title to the Units and this Lease will be conveyed to the Trustee until the Lessor fulfills all its obligations under the Equipment Trust Agreement and the Lessee will guarantee such obligations;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but subject and subordinate to all the rights and remedies of the Trustee under the Equipment Trust Agreement.

§1. *Delivery and Acceptance of Units.* The Lessor will cause each Unit accepted pursuant to a Manufacturing Agreement to be delivered to the Lessee at the same point or points within the United States of America at which such Unit is delivered to the Lessor under such Manufacturing Agreement, such point or points, however, to be mutually acceptable to the Lessor and the Lessee. Upon such delivery, the Lessee will cause an inspector of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and to execute and deliver to the Lessor a certificate of acceptance therefor, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee under this Lease and shall be subject thereafter to all the terms and conditions of this Lease.

§2. *Rentals.* The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, one payment on December 13, 1973, or such other date on which such Unit is settled for under the Manufacturing Agreement in respect of such Unit (such date in respect of such Unit being hereinafter called the Closing Date) and 41 consecutive semiannual payments, payable on January 15 and July 15 in each year commencing January 15, 1974 (or in the case of Units settled for after January 15, 1974, 40 consecutive semiannual payments payable on January 15 and July 15 in each year commencing July 15, 1974). The rental payment payable on the Closing Date shall be in an amount equal to interest (computed on the basis of a 360-day year of twelve 30-day months) on the Purchase Price (as defined in the Manufacturing Agreements) of each Unit from the 30th day following the date of acceptance of such Unit pursuant to §1 hereof to and including the day before the Closing Date, at a rate per annum equal to the prime rate which Manufacturers Hanover Trust Company, New York, New York, would charge for 90-day loans to borrowers of the highest credit standing for the period such interest is payable; *provided, however,* that changes in such prime rate occurring during the ten business days preceding the Closing Date shall be disregarded. The rental payment payable on January 15, 1974, shall be in an amount equal to .0157987% of the Purchase Price of each Unit then subject to this Lease for each day elapsed from and including the Closing Date to January 15, 1974. The rental payment payable on July 15, 1974, shall be in an amount equal to 2.843750% of the Purchase Price of each Unit then subject to this lease less an amount equal to .0157987% of the Purchase Price of each such Unit which shall have been

settled for after January 15, 1974, for each day elapsed from January 15, 1974, to the Closing Date in respect of such Unit. The rental payments payable on January 15 and July 15 in each of the years 1975 through 1978, and on January 15, 1979, shall each be in an amount equal to 2.843750% of the Purchase Price of each Unit then subject to this Lease. The rental payments payable on July 15, 1979, on January 15 and July 15 in each of the years 1980 through 1988, and on January 15, 1989, shall each be in an amount equal to 5.642162% of the Purchase Price of each Unit then subject to this Lease. The remaining semiannual rental payments shall each be in an amount equal to 2.49400% of the Purchase Price of each Unit then subject to this Lease.

If any of the semiannual rental payment dates referred to above is not a business day the semiannual rental payment otherwise payable on such date shall be payable on the next succeeding business day, and no interest shall accrue for the period from and after the nominal date for payment thereof to such next succeeding business day.

Notwithstanding anything to the contrary contained herein, any and all sums paid by the Lessee pursuant to its guaranty set forth in the Equipment Trust Agreement in respect of the obligations of the Lessor thereunder not attributable to an Event of Default (as hereinafter defined) hereunder or to late payment shall be thereupon deemed to have been paid in reduction or satisfaction, to the extent thereof, of any rental payments then due and payable by the Lessee to the Lessor under this §2.

Unless the Equipment Trust Agreement is not executed and delivered, the Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease (other than the first rental payment and any amount payable in respect of a Unit which has not been settled for pursuant to the Equipment Trust Agreement by reason of such Unit having suffered a Casualty Occurrence [as defined in §6 hereof], which rental payment and amount shall be paid to the Lessor at such place as the Lessor shall specify in writing), at the principal corporate trust office of the Trustee, for the account of the Lessor, in care of the Trustee, with instructions to the Trustee first to apply such payments to satisfy the obligations of the Lessor under the Equipment Trust Agreement known to the Trustee to be due and payable on the date such payments are due and payable hereunder and second, so long as no Event of Default under the Equipment Trust Agreement shall have

occurred and be continuing, to pay any balance promptly to the Lessor in immediately available funds at such place as the Lessor shall specify in writing. If the Equipment Trust Agreement is not executed and delivered, all payments provided for in this Lease shall be made at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in immediately available funds in the city where such payment is to be made.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or set-off against rent, including, but not limited to, abatements, reductions or set-offs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or otherwise or against the Trustee; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use of or destruction of all or any of the Units from whatsoever cause, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease or lack of right, power or authority of the Lessor to enter into this Lease or the Equipment Trust Agreement, or by reason of any failure by the Lessor to perform any of its obligations herein contained, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

§3. *Term of Lease; Payment for Early Termination.* The term of this Lease as to each Unit shall begin on the date of the acceptance thereof by the Lessee pursuant to §1 hereof and, subject to the provisions of this §3 and §§6 and 9 hereof, shall terminate on the date on which the final semiannual payment of rent in respect thereof is due hereunder.

The Lessee shall have the right to terminate this Lease at any time on or after the 15th day of January, 1989, upon giving not less than 90 days' prior written notice to the Lessor, and the termination shall be effective on the

rental payment date next following expiration of such notice (such date being hereinafter called the Termination Date); *provided, however,* that the Lessee shall be liable for rentals to and including but not after the Termination Date; and *provided further* that no Event of Default shall have occurred and be continuing. During the period from the giving of such notice until the Termination Date, the Lessor may, and the Lessee (as agent for the Lessor) shall use its best efforts to, obtain bids for the purchase of the Units. The Lessee shall certify to the Lessor in writing the amount of each bid received by the Lessee and the name and address of the party submitting such bid. The Lessor on the Termination Date shall sell such Units, without recourse or warranty, against receipt in cash of the full amount of the purchase price, to the bidder submitting the highest bid and shall transfer to such purchaser all of the Lessor's right, title and interest in and to such Units, and thereupon the Lessee shall deliver such Units to the Lessor in accordance with the terms of §12 hereof. The Lessor shall certify in writing to the Lessee (i) the amount of such total sale price, (ii) the expenses incurred by the Lessor in connection with such sale and (iii) that such total sale price represents the highest bid received by the Lessor for the purchase of such Units. The total sale price realized at such sale shall be retained by the Lessor and, in addition, on the Termination Date, the Lessee shall pay to the Lessor the amount, if any, by which the Termination Amount and an amount equal to the accrued rental for all Units then subject to this Lease to the date of such payment, exceeds the proceeds of such sale less all reasonable expenses incurred by the Lessor in selling such Units, whereupon the obligation of the Lessee to pay the rental accruing hereunder with respect to such Units due and payable after, but not on or before, the Termination Date shall cease. In the event no such sale takes place, the Lessee shall pay to the Lessor the Termination Amount and an amount equal to the accrued rental for all units then subject to this Lease to the date of such payment, whereupon the rental for such Units shall cease to accrue as of the date of such payment, the term of this Lease shall terminate and the Lessor shall transfer to the Lessee all of the Lessor's right, title and interest in and to such Units.

Notwithstanding the foregoing, the Lessor may elect not to sell such Units to the highest bidder on the Termination Date and the Lessee shall deliver such Units to the Lessor in accordance with the terms of §12 hereof. Thereafter, the Lessee shall be relieved of all obligation to pay the

Termination Amount and, upon payment on the Termination Date of the accrued rental for all Units then subject to this Lease to the date of such payment, the rental for such Units shall cease to accrue as of the date of such payment and the term of this Lease shall terminate.

The Termination Amount of any Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the following schedule opposite such rental payment date:

Rental Payment Date	Percentage	Rental Payment Date	Percentage
January 15, 1989.	24.0000%	July 15, 1991	15.5379%
July 15, 1989	22.3620	January 15, 1992.	13.6111
January 15, 1990.	20.8145	July 15, 1992	11.6074
July 15, 1990	19.1555	January 15, 1993.	9.5310
January 15, 1991.	17.3974	July 15, 1993	7.3721

§4. *Identification Marks.* The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain plainly, distinctly, permanently and conspicuously marked on each side of such Unit, in letters not less than one inch in height, the following words: "OWNED BY A BANK OR TRUST COMPANY UNDER A SECURITY AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20c", or other appropriate words designated by the Lessor or the Trustee, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the title of the Lessor and the security title of the Trustee to such Unit and the rights of the Lessor under this Lease and the Equipment Trust Agreement and of the Trustee under the Equipment Trust Agreement. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change or permit to be changed the identifying number of any Unit except in accordance with a statement of new numbers to be substituted therefor, which statement previously shall have been filed with the Trustee and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease

and the Equipment Trust Agreement shall have been filed, recorded and deposited.

Each Unit may be lettered "Trailer Train Company", "T.T.X.", or in some other appropriate manner for convenience of identification of the interests of the Lessor and the Lessee therein. Except as above provided, the Lessee will not allow the name of any person or entity to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership.

§5. *Taxes.* All payments to be made by the Lessee hereunder will be free of expense to the Lessor and the Trustee for collection or other charges and will be free of expense to the Lessor and the Trustee with respect to the amount of any local, state, federal or foreign taxes (other than any United States federal income tax [and, to the extent that the Lessor is entitled to credit therefor against its United States federal income tax liability, any foreign income tax] payable by the Lessor in consequence of the receipt of payments provided herein and other than the aggregate of all state or local income taxes or franchise taxes measured by net income based on such receipt, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided, and other than any taxes payable by the Trustee in consequence of the receipt by the Trustee of fees or compensation for services rendered under the Equipment Trust Agreement) or license fees, assessments, charges, fines or penalties (all such taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured by this Lease, the Equipment Trust Agreement or any of the instruments or agreements referred to herein or therein or contemplated hereby or thereby, or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof, the Equipment Trust Agreement or any such instruments or agreements, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof or upon the Trustee solely by reason of its security title thereto and any impositions upon or on account of the trust created by the Equipment Trust Agreement or the transactions

contemplated thereby (whether or not such transactions shall actually be consummated) or the instruments or agreements referred to therein or contemplated thereby, and will keep at all times all and every part of such Unit free and clear of all impositions which might affect the title of the Lessor and the security title of the Trustee (or the interests of the holders of the Equipment Trust Certificates therein) or result in a lien or security interest upon any such Unit and will supply the Lessor and the Trustee with a receipt or other evidence of such payment satisfactory to the Lessor and the Trustee; *provided, however,* that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor or the Trustee, adversely affect the title, property or rights of the Lessor or the Trustee hereunder or under the Equipment Trust Agreement. If any imposition shall have been charged or levied against the Lessor or the Trustee directly and paid by the Lessor or the Trustee, the Lessee shall reimburse the Lessor or the Trustee, as the case may be, on presentation of an invoice therefor. The Lessor agrees that if, in the opinion of independent tax counsel selected by the Lessor and acceptable to the Lessee (and whose fees and expenses shall be paid by the Lessee), a bona fide claim exists to all or a portion of any imposition in respect of which the Lessee has made payment to the Lessor as aforesaid, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by said independent counsel in order to sustain such claim. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested. The Lessee shall be entitled to the proceeds of the successful prosecution of any such claim.

In the event any reports with respect to impositions are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Trustee in the Units, if such is necessary or appropriate, or will notify the Lessor and the Trustee of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor and the Trustee.

In the event that, during the continuance of this Lease, the Lessee shall become liable for the payment or reimbursement of any impositions

pursuant to this §5, the Lessee shall become liable for all impositions accrued or levied during, or based on or applicable to, the term of this Lease, and such liability shall continue, notwithstanding the termination of this Lease, until all such impositions are paid or reimbursed by the Lessee.

§6. *Payment for Casualty Occurrences.* Whenever any Unit shall be or become worn out, lost, stolen, destroyed or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being herein called Casualty Occurrences) during the term of this Lease, or until such Unit shall have been returned in the manner provided in §12 hereof, the Lessee shall, promptly after it shall have been determined that such Unit has suffered a Casualty Occurrence, deliver to the Lessor and the Trustee an Officer's Certificate fully informing them with respect thereto and complying with the provisions of the Equipment Trust Agreement. On the rental payment date next succeeding the delivery of such Officer's Certificate (or, in the event such rental payment date [other than the first rental payment date] will occur within 60 days after such delivery, on the following rental payment date, or, in the event the term of this Lease will expire within 60 days after such delivery, on such expiration date or any other date thereafter within 60 days of such delivery, or, in the event that such Unit shall not have been settled for pursuant to the Equipment Trust Agreement at the time of such delivery, on the date such Unit would have been so settled for but for such Casualty Occurrence) the Lessee shall pay to the Lessor an amount equal to the accrued rental for such Unit to the date of such payment plus a sum equal to the Casualty Value of such Unit as of such payment date in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit. If the date upon which the making of such payment by the Lessee in respect of any Unit is required as aforesaid shall be after the term of this Lease in respect of such Unit, no rental for such Unit shall accrue after the end of such term but the Lessee, in addition to paying the Casualty Value for such Unit, shall pay interest thereon at the prime rate of interest which the Trustee would charge on the date of such payment for 90-day loans to borrowers of the highest credit standing from the end of such term to the date of such payment.

The Casualty Value of each Unit as of any rental payment date shall be the greater of (x) the Fair Value thereof as determined pursuant to the Equipment Trust Agreement and (y) that percentage of the Purchase Price of such Unit as is set forth in the following schedule opposite the number of such rental payment date (such numbers commencing with the rental payment due on January 15, 1974):

Rental Payment Date No.	Percentage	Rental Payment Date No.	Percentage
1	104.1808%	22	67.7139%
2	106.3906	23	64.0614
3	108.3093	24	60.3114
4	109.9996	25	56.4782
5	111.4273	26	52.5501
6	111.6003	27	48.5398
7	108.7814	28	44.4322
8	109.5395	29	40.2379
9	110.0683	30	35.9405
10	109.4529	31	31.5836
11	106.0207	32	30.2242
12	103.5234	33	28.8678
13	100.8727	34	27.4707
14	97.0441	35	26.0250
15	90.5005	36	24.5220
16	87.5636	37	22.9664
17	84.5173	38	21.3493
18	81.3613	39	19.6754
19	78.1023	40	17.9356
20	74.7377	41	16.0400
21	71.2766		

Except as hereinabove in this §6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

§7. *Annual Reports.* On or before April 1 in each year, commencing with the year 1974, the Lessee will furnish to the Lessor and the Trustee, in such number of counterparts or copies as may reasonably be requested, an Officer's Certificate, as of the preceding December 31, (i) showing the amount, description and numbers of all Units then leased hereunder and the

amount, description and numbers of all Units that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease in the case of the first such Officer's Certificate), and such other information regarding the condition and state of repair of the Units as the Lessor or the Trustee may reasonably request and (ii) stating that, in the case of all Units repaired or repainted during the period covered thereby, the markings required by §4 hereof and the Equipment Trust Agreement have been preserved or replaced. The Lessor shall have the right at its sole cost, risk and expense, by its agents, to inspect the Units and the records of the Lessee with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

§8. *Disclaimer of Warranties; Compliance with Laws, Rules and Regulations; Maintenance; Indemnification.* The Lessee has selected the Manufacturers and determined the design and specifications of the Units. **The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and the Lessor makes no warranty of merchantability or fitness of the Units for any particular purpose or as to its title to the Units or any component thereof,** it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the manufacturer of the Units or of the components thereof. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's acceptance of delivery of the Units shall be conclusive evidence as between the Lessee, the Lessor and the Trustee that all Units described in any Officer's Certificate confirming such

acceptance are in all the foregoing respects satisfactory to the Lessee and the Lessee will not assert any claim of any nature whatsoever against the Lessor or the Trustee based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Trustee, to comply in all respects with all laws of the jurisdictions in which operations involving any Unit subject to this Lease may extend, with the Interchange Rules of the Association of American Railroads, if applicable, and with all lawful rules of the Interstate Commerce Commission, if applicable, the Federal Railroad Administration and any other legislative, executive, administrative or judicial body or officer exercising any power or jurisdiction over any such Unit, to the extent such laws and rules affect the operations or use of such Unit; and the Lessee shall and does hereby indemnify the Lessor and the Trustee and agrees to hold the Lessor and the Trustee harmless from and against any and all liability that may arise from any infringement or violation of any such laws or rules by the Lessee, the Lessee's employees or any other person. In the event that such laws or rules require the alteration of any Unit or in case any equipment or appliance on any such Unit shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Unit in order to comply with such laws and rules, the Lessee agrees to make such alterations, changes, additions and replacements at its own expense and to use, maintain and operate such Unit in full compliance with such laws and rules so long as such Unit is subject to this Lease; *provided, however,* that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Trustee, adversely affect the property or rights of the Lessor or the Trustee hereunder or under the Equipment Trust Agreement.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good order and proper repair.

Any and all additions to any Unit and any and all parts installed on or replacements made to any Unit (other than any special devices, racks or assemblies at any time attached or affixed to any such Unit, the cost or purchase price of which is not included in the Cost of such Unit and the title to which is in a person or entity other than the Lessor, the Lessee or the Trustee) shall be considered accessions to such Unit and, without cost or

expense to the Lessor or the Trustee, there shall immediately be vested in the Lessor and the Trustee the same interests in such accessions as the interests of the Lessor and the Trustee in such Unit. The Lessee may make alterations or modifications to any Unit so long as they do not affect the value of such Unit adversely. The Lessee shall not permit any special device, rack or assembly to be attached or affixed to any Unit which may not be readily removed from such Unit without materially impairing such Unit or the value thereof unless such special device, rack or assembly is to be considered an accession to such Unit.

The Lessee agrees to indemnify and save harmless the Lessor and the Trustee against any charge or claim made against the Lessor or the Trustee and against any expense, loss or liability (including but not limited to strict liability imposed by statute or rule of law, counsel fees and expenses, patent liabilities, penalties and interest) which the Lessor or the Trustee may incur in any manner by reason of the issuance of the Trust Certificates or by reason of entering into or performing the Equipment Trust Agreement, this Lease, any of the instruments or agreements referred to therein or herein or contemplated thereby or hereby or the ownership of, or which may arise in any manner out of or as the result of the ordering, acquisition, purchase, use, operation, condition, delivery, rejection, storage or return of, any Unit while subject to this Lease or until no longer in the possession of or stored by the Lessee, whichever is later, and to indemnify and save harmless the Lessor and the Trustee against any charge, claim, expense, loss or liability (including but not limited to strict liability imposed by statute or rule of law, counsel fees and expenses) on account of any accident in connection with the operation, use, condition, possession or storage of any Unit resulting in damage to property, or injury to or death of any person. The indemnities contained in this paragraph shall survive payment of all other obligations under this Lease and the termination of this Lease.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of, and furnish a copy to, the Lessor) any and all reports known by the Lessee to be required to be filed by the Lessor, or requested by the Lessor to be filed, with any federal, state or other regulatory authority by reason of the ownership by the Lessor of the Units, the security title of the Trustee to the Units or the leasing of the Units to the Lessee.

§9. *Default.* If, during the continuance of this Lease, one or more of the following events (herein sometimes called Events of Default) shall occur and be continuing:

A. default shall be made in the payment of any part of the rental provided in §2 or §17 hereof and such default shall continue for seven days; or

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or any unauthorized sublease or use of the Units, or any thereof; or

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Equipment Trust Agreement and such default shall continue for 20 days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied; or

D. any proceeding shall be commenced by or against the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease, under the Equipment Trust Agreement and under the guaranty endorsed on the Trust Certificates shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

E. an Event of Default shall have occurred and be continuing under any lease entered into by the Lessee pursuant to the Leasing Agreement dated as of the date hereof among the Lessee, the Lessor and the other parties listed in Schedule A thereto;

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and determine as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of the Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 6% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental and (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States of America or any political subdivision thereof, shall, in the reasonable

opinion of the Lessor, cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the Investment Credit (as defined in §17 hereof) with respect to the Units, lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in §17 or any other provision of this Lease, the inaccuracy of any statement in any letter or document furnished to the Lessor by the Lessee, the termination of this Lease, the Lessee's loss of the right to use any Unit or the sale or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default, plus such sum as shall, in the reasonable opinion of the Lessor, cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the ADR Deduction (as defined in §17 hereof) which was lost, not claimed, not available for claim or disallowed or recaptured in respect of a Unit as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in §17 or any other provision of this Lease, the inaccuracy of any statement in any letter or document furnished to the Lessor by the Lessee, the termination of this Lease, the Lessee's loss of the right to use such Unit or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. Subject to the provisions of the third paragraph of §2 hereof, the Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not

constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

§10. *Return of Units Upon Default.* If this Lease shall terminate pursuant to §9 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit returned to the Lessor pursuant to this §10 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) have attached or affixed thereto any special device, rack or assembly considered an accession thereto as provided in §8 hereof and have removed therefrom any special device, rack or assembly not so considered an accession thereto and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

A. forthwith and in the usual manner and at usual speed, cause such Units to be transported to such point or points as shall reasonably be designated by the Lessor, and

B. arrange for the Lessor to store such Units on any lines of railroad or premises approved by the Lessor until such Units have been sold, leased or otherwise disposed of by the Lessor.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any Unit, to inspect the same; *provided, however,* that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 10, the Lessee hereby irrevocably appoints the

Lessor as the agent and the attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Unit. In connection therewith the Lessee will supply the Lessor with such documents as the Lessor may reasonably request.

§11. *Assignment; Possession and Use.* This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including but not limited to the rights under §§5, 8, 9 and 17 hereof) shall inure to the benefit of the Lessor's assigns as if named herein as Lessor. Whenever the term Lessor is used in this Lease it shall apply and refer to the Lessor and the Beneficiary and each assignee of the Lessor and, where the context so requires (including, but not limited to, certain of the provisions of §§5, 9 and 17 hereof), shall refer only to the Beneficiary.

So long as no Event of Default exists hereunder and the Lessee shall have fully complied with the provisions of the fifth paragraph of this §11 and the third paragraph of §17 hereof, the Lessee shall be entitled to the possession of the Units and also to sublease the Units to, or to permit their use under the terms of car contracts by, a sublessee or user incorporated in the United States of America (or any State thereof or the District of Columbia), upon lines of railroad owned or operated by a railroad company or companies incorporated in the United States of America (or any State thereof or the District of Columbia), or over which such railroad company or companies have trackage rights or rights for operation of their trains, and upon connecting and other carriers in the usual interchange of traffic in the continental United States, Canada and Mexico, but only upon and subject to all the terms and conditions of this Lease; *provided, however,* that if the Lessee subleases or permits the use of any Unit in Canada (or any Province or Territory thereof) or in Mexico (or any State or the Federal District thereof), the Company shall, except as otherwise provided in §15 hereof, first have (a) taken all necessary action to protect the right, title and interest of the Lessor and the Trustee in the Units to be so subleased or used and (b) furnished the Lessor and the Trustee with an opinion of Canadian or

Mexican counsel, as the case may be, satisfactory to the Lessor and the Trustee to the effect that such action is all that is necessary to protect the right, title and interest of the Lessor and the Trustee in such Units; *and provided further,* that any such sublease or use shall be consistent with the provisions of §17 hereof.

Any such sublease may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the Units included in such sublease and the use thereof; *provided, however,* that every such sublease shall be subject to the rights and remedies of the Trustee under the Equipment Trust Agreement and the Lessor under this Lease in respect of the Units covered by such sublease upon the occurrence of an Event of Default thereunder or hereunder.

The Lessor shall have the right to declare this Lease terminated in case of any unauthorized assignment or transfer of the Lessee's rights hereunder or in case of any unauthorized transfer or sublease of any of the Units.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except as aforesaid and other than an encumbrance resulting from claims against the Lessor or the Trustee not related to the ownership or leasing of, or the security title of the Trustee to, the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interest of the Lessor, the Trustee or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of this §11.

§12. *Return of Units upon Termination of Term.* The Lessor intends to retain the Units for re-lease at the expiration of the term of this Lease. As soon as practicable on or after the termination of the term of this Lease the Lessee will, at its own cost and expense, at the request of the Lessor, cause each Unit to be transported to such point or points as shall be reasonably designated by the Lessor immediately prior to such termination and arrange for the Lessor to store such Unit on any lines of railroad or premises approved by the Lessor for a period not exceeding three months from the date such Unit is first placed in storage pursuant to this §12; the assembly, delivery, storage and transporting of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the

Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; *provided, however,* that the Lessee shall not be liable except in the case of negligence of the Lessee or of its employees or agents and except to the extent otherwise provided by law, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembly, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Lessor pursuant to this §12 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) have attached or affixed thereto any special device, rack or assembly considered an accession thereto as provided in §8 hereof and have removed therefrom any special device, rack or assembly not so considered an accession thereto and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable. If the Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which, within 90 days after expiration of this Lease, the Lessor shall elect to abandon, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume, and hold the Lessor harmless from, all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. The Lessor shall execute and deliver to the Lessee a bill or bills of sale (without warranties) transferring to the Lessee, or upon its order, the Lessor's title to and property in any Unit abandoned by it pursuant to the immediately preceding sentence. The Lessee shall have no liability to the Lessor in respect of any Unit abandoned by the Lessor after termination of this Lease; *provided, however,* that the foregoing clause shall not in any way relieve the Lessee of its obligations pursuant to §6 hereof to make payments provided for therein in respect of any Unit experiencing a Casualty Occurrence during the term of this Lease.

§ 13. *Provisions Concerning Subordinated Notes.* It is the intention of the parties hereto that the obligations of the Lessee under this Lease shall be superior in right of payment to all the Lessee's Thirty Year Subordinated

Notes sold or to be sold pursuant to a Note Purchase Agreement dated as of January 1, 1967, between the Lessee and certain of its stockholders. The Lessee covenants and agrees that if an Event of Default exists hereunder or an Event of Default (as defined in the Equipment Trust Agreement) exists under the Equipment Trust Agreement or any event which, with the giving of notice or the lapse of time, or both, would constitute an Event of Default hereunder or under the Equipment Trust Agreement, shall have occurred and be continuing, the Lessee will not voluntarily prepay or retire any of such Notes.

§ 14. *Increase of User Rates.* The Lessee covenants and agrees (i) that, if an Event of Default exists under §9(A) hereof by reason of the failure of the Lessee to pay to the Trustee within the grace period provided in §9(A) hereof all or any part of the rentals due and payable under §2 hereof required for the payment of the principal of or interest on the Trust Certificates (but not including any principal or interest payable by reason of acceleration of the date of payment thereof), the Lessee will, upon written notice by the Lessor so to do, within ten days after receipt of such notice, deliver to all parties to its Form A and Form B car contracts (or such other Forms as may hereafter be used in substitution or in replacement of such Form A and Form B car contracts) due and proper notice of increases in the car user charges under such contracts, (ii) that all car contracts covering any unit or units of railroad equipment of which the Lessee is the owner or the lessee will contain provisions permitting the Lessee to require such increases and (iii) that, except in connection with an assignment or transfer in accordance with the provisions of the Equipment Trust Agreement, the Lessee will not assign or transfer its rights and obligations to require such increases under any such car contracts. Such increases shall commence to accrue and shall be effective on the first day of the first calendar month beginning subsequent to ten days after delivery of such notice by the Lessee to the parties to such car contracts. Such increases shall be in such amounts or percentages as will cause to accrue and be payable to the account of the Lessee in respect of the first calendar month during which they are in effect such additional sums of money as will be needed by the Lessee to enable it to pay all such overdue principal and interest (with interest on overdue principal and interest at the Penalty Rate, to the extent that it shall be legally enforceable) and to cure any defaults in payment of any principal, dividends or interest (or rentals intended to provide for payment thereof) payable

under comparable provisions of any other equipment trust, conditional sale or other equipment agreement of the Lessee not guaranteed jointly and severally by its shareholders or a group of its shareholders (except defaults arising by reason of acceleration of the date of payment of instalments of principal, dividends or interest, or rentals intended to provide for payment thereof), whether heretofore or hereafter entered into, based upon the most recent records or information available to the Lessee relating to the use of its cars. If for any reason any such increases so made by the Lessee shall fail to provide in 90 days sufficient cash to enable the Lessee to cure such default or defaults hereunder and under any other such agreements, or if cash is provided but is not for any reason applied to cure such defaults, the Lessee will, upon receipt of written notice from the Lessor so to do, promptly make such further increases in its user charges as may from time to time be necessary to enable the Lessee to cure all such defaults hereunder and under such other agreements.

§15. *Recording and Expenses.* Prior to the delivery and acceptance of any Unit hereunder, the Lessee will without expense to the Lessor cause this Lease, any Supplement relating to such Unit, any assignments hereof and thereof, the Manufacturing Agreements and any supplement thereto relating to such Unit to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing and recording required under the Equipment Trust Agreement and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Trustee (except as otherwise provided in the Equipment Trust Agreement) for the purpose of proper protection, to the satisfaction of the Lessor and the Trustee, of the Lessor's and the Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease and the Equipment Trust Agreement; *provided, however,* that the Lessee shall not be required to take any such action in respect of any jurisdiction outside the United States if (1) the Lessee deems such action to be unduly burdensome, (2) after giving effect to the failure to take such action, the Lessee has taken all action required by law to protect the title of the Lessor and the Trustee to Units having a fair value of not less than 85% of the aggregate fair value of all the Units then subject to this Lease (such

fair value to be determined in the manner provided in the Equipment Trust Agreement), and (3) any Unit at any time located in such jurisdiction shall have been marked with the markings specified in §4 hereof.

The Lessee will promptly furnish to the Lessor and the Trustee evidence of all such filing, registering, recording, depositing, refiling, reregistering, rerecording and/or redepositing and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lessor and the Trustee.

§16. *Interest on Overdue Rentals.* Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to interest at the Penalty Rate (as defined in the Equipment Trust Agreement) on the overdue rentals and other obligations for the period of time during which they are overdue.

§17. *Federal Income Taxes.* The Lessor, as the owner of the Units, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), to an owner of property, including, without limitation, the ADR Deduction (as hereinafter defined), deductions with respect to interest payable under the Equipment Trust Agreement and the Manufacturing Agreements, and the 7% investment credit (herein called the Investment Credit), with respect to the Purchase Price of the Units pursuant to Section 38 and related sections of the Code.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing and that each of such corporations will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof.

Notwithstanding anything to the contrary contained in §11 hereof, the Lessee represents and warrants that (i) all the Units constitute property the entire Purchase Price of which qualifies for the Investment Credit under Section 50 of the Code; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so

as to preclude "the original use of such property" within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; (iii) at all times during the term of this Lease, each Unit will constitute "section 38 property" within the meaning of Section 48(a) of the Code, will not be used predominantly outside the United States within the meaning of said Section 48(a) (or any exception thereto) and will be used by railroad companies; and (iv) the Lessee will maintain sufficient records to verify such use.

If the Lessor shall lose or shall, in the opinion of independent tax counsel for the Lessor, not have the right to claim, or if there shall be disallowed with respect to the Lessor all or any portion of the Investment Credit or the maximum depreciation deduction authorized under Section 167 of the Code utilizing the "class life" prescribed in accordance with Section 167(m) of the Code (hereinafter called the ADR Deduction) with respect to the Units and such loss, inability to claim or disallowance is based on the inaccuracy in law or in fact of the representations and warranties set forth in the preceding paragraph or is due to any act or omission of the Lessee or is due to the inaccuracy of any statement in any letter or document furnished to the Lessor by the Lessee in connection with any application for ruling of the Internal Revenue Service or otherwise, the rental rates for the Units set forth in §2 hereof shall, on the next succeeding rental payment date after written notice to the Lessee by the Lessor of such fact, be increased to such amount or amounts as shall, in the reasonable opinion of the Lessor, cause the Lessor's net return to equal the net return that would have been realized by the Lessor if the Lessor had been entitled to utilize all the Investment Credit and the ADR Deduction, and the Lessee shall forthwith pay to the Lessor as additional rental the amount of any interest and/or penalties which may be assessed by the United States of America against the Lessor attributable to the loss of all or such portion of the Investment Credit or the ADR Deduction.

§18. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States mails, first-class postage prepaid, addressed as follows:

If to the Lessor, at 79 South Main Street, Salt Lake City, Utah 84111, attention of Trust Department (with copies to Itel Leasing

Corporation, One Embarcadero Center, San Francisco, California 94111, attention of Contract Administration Department and the Beneficiary, at its address set forth in Item 1 of Schedule A hereto);

If to the Lessee, at 300 South Wacker Drive, Chicago, Illinois 60606, attention of Vice President—Finance;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Any certificate, document or report required to be furnished by either party hereto to the other party shall be delivered to the address set forth above for such party.

§19. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units, other than the Leasing Agreement dated as of the date hereof among the Lessee, the Lessor and the other parties named in Schedule A thereto, the Equipment Trust Agreement and the Manufacturing Agreements. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and the Lessee.

§20. *Execution.* This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument but the counterpart delivered to the Trustee shall be deemed to be the original counterpart. Although this Lease is dated as of the date first set forth above, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§21. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; *provided, however,* that the parties shall be entitled to all rights conferred by

Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof or out of the marking on the Units as shall be conferred by the laws of the several jurisdictions in which this Lease or any assignment hereof shall be filed, recorded or deposited or in which any Unit may be located.

§22. *Obligations of Lessor Under Equipment Trust Agreement.* In the event that the Lessor shall become obligated to make any payment (including, but not limited to, the rental payment required by Section 5.04(a)(ii) of the Equipment Trust Agreement, but other than payments in settlement for Equipment whether by advance rental or otherwise pursuant to the Equipment Trust Agreement) or to perform any other obligations pursuant to the Equipment Trust Agreement not covered by the provisions of this Lease, the Lessee shall pay such additional amounts to the Trustee and perform such obligations so that the Lessor's obligations (other than payments in settlement for Equipment whether by advance rental or otherwise pursuant to the Equipment Trust Agreement) pursuant to the Equipment Trust Agreement shall be fully complied with.

If the Equipment Trust Agreement is not executed and delivered, any provision of this Lease which must be construed by reference to the Equipment Trust Agreement shall nevertheless be so construed, but all provisions of this Lease relating to the rights and interests of the Trustee shall be construed with due effect given to such failure of execution and delivery.

§ 23. *No Recourse.* No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Lessor or the Lessee, or against the Beneficiary or any other beneficiary of a trust for which the Lessor is acting as trustee, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION,
As Trustee,

[CORPORATE SEAL]

by .....
Authorized Officer

Attest:

.....
Authorized Officer

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by .....
Vice President—Finance

Attest:

.....
Assistant Secretary

STATE OF UTAH
COUNTY OF SALT LAKE } ss.:

On this day of , 1973, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said national banking association, that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

.....
Notary Public

[NOTARIAL SEAL]

My Commission expires

STATE OF ILLINOIS
COUNTY OF COOK } ss.:

On this day of , 1973, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

My Commission expires

AA

SCHEDULE A

Item 1:

Trusco Leasing Inc.
P. O. Drawer 4418
Atlanta, Georgia 30302
(Attention of Whitney C. O'Keefe, President)

Item 2:

Type	Quantity	Lessee's Car Numbers (Inclusive)
89′4″ 70-ton capacity, standard level, hydraulic draft gear, auto rack flat car	57	964871—964927
89′4″ 70-ton capacity, standard level, standard draft gear flat car equipped with hitches	47	159186—159232
89′4″ 70-ton capacity, standard level, standard draft gear, saddle back flat car	29	964932—964960
89′4″ 70-ton capacity, standard level, standard draft gear flat car for general use	4	964928—964931